

PATENT COOPERATION TREATY

From the
INTERNATIONAL PRELIMINARY EXAMINING AUTHORITY

To: BAYER CROPSCIENCE GMBH Patent- und Lizenzabteilung Industriepark Höchst Gebäude K 607 D-65926 FRANKFURT a.M. ALLEMAGNE	<table border="1"> <tr><td colspan="2">Bayer CropScience GmbH</td></tr> <tr><td colspan="2">Patent- u. Lizenzabteilung K 607</td></tr> <tr><td>Vorg.</td><td></td></tr> <tr><td colspan="2">Eing. - 1. Juli 2005</td></tr> <tr><td colspan="2"><input type="radio"/> WV</td></tr> <tr><td colspan="2"><input type="radio"/> ablegen</td></tr> <tr><td colspan="2"><input type="radio"/> Vert. wie Vorg. / angegeb.</td></tr> </table>	Bayer CropScience GmbH		Patent- u. Lizenzabteilung K 607		Vorg.		Eing. - 1. Juli 2005		<input type="radio"/> WV		<input type="radio"/> ablegen		<input type="radio"/> Vert. wie Vorg. / angegeb.		<p style="text-align: center;">PCT</p> <p>NOTIFICATION OF TRANSMITTAL OF THE INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY (PCT Rule 71.1)</p>
Bayer CropScience GmbH																
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		Date of mailing (day/month/year) 30.06.2005														
Applicant's or agent's file reference BCS 03-1019	IMPORTANT NOTIFICATION															
International application No. PCT/EP2004/008010	International filing date (day/month/year) 17.07.2004	Priority date (day/month/year) 31.07.2003														
Applicant BAYER CROPSCIENCE GMBH et al.																

1. The applicant is hereby notified that this International Preliminary Examining Authority transmits herewith the international preliminary report on patentability and its annexes, if any, established on the international application.
2. A copy of the report and its annexes, if any, is being transmitted to the International Bureau for communication to all the elected Offices.
3. Where required by any of the elected Offices, the International Bureau will prepare an English translation of the report (but not of any annexes) and will transmit such translation to those Offices.

4. REMINDER

The applicant must enter the national phase before each elected Office by performing certain acts (filing translations and paying national fees) within 30 months from the priority date (or later in some Offices) (Article 39(1)) (see also the reminder sent by the International Bureau with Form PCT/B/301).

Where a translation of the international application must be furnished to an elected Office, that translation must contain a translation of any annexes to the international preliminary report on patentability. It is the applicant's responsibility to prepare and furnish such translation directly to each elected Office concerned.

For further details on the applicable time limits and requirements of the elected Offices, see Volume II of the PCT Applicant's Guide.

The applicant's attention is drawn to Article 33(5), which provides that the criteria of novelty, inventive step and industrial applicability described in Article 33(2) to (4) merely serve the purposes of international preliminary examination and that "any Contracting State may apply additional or different criteria for the purposes of deciding whether, in that State, the claimed inventions is patentable or not" (see also Article 27(5)). Such additional criteria may relate, for example, to exemptions from patentability, requirements for enabling disclosure, clarity and support for the claims.

Name and mailing address of the international preliminary examining authority:  European Patent Office D-80298 Munich Tel. +49 89 2399 - 0 Tx: 523656 epmu d Fax: +49 89 2399 - 4465	Authorized Officer Hutterer, G Tel. +49 89 2399-8066	
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PATENT COOPERATION TREATY
PCT
INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY
(Chapter II of the Patent Cooperation Treaty)
(PCT Article 36 and Rule 70)

Applicant's or agent's file reference BCS 03-1019	FOR FURTHER ACTION		See Form PCT/IPEA/416																
International application No. PCT/EP2004/008010	International filing date (<i>day/month/year</i>) 17.07.2004	Priority date (<i>day/month/year</i>) 31.07.2003																	
International Patent Classification (IPC) or national classification and IPC C07D487/04, A01N43/90																			
Applicant BAYER CROPSCIENCE GMBH et al.																			
<p>1. This report is the international preliminary examination report, established by this International Preliminary Examining Authority under Article 35 and transmitted to the applicant according to Article 36.</p> <p>2. This REPORT consists of a total of 4 sheets, including this cover sheet.</p> <p>3. This report is also accompanied by ANNEXES, comprising:</p> <p>a. <input type="checkbox"/> <i>(sent to the applicant and to the International Bureau)</i> a total of sheets, as follows:</p> <ul style="list-style-type: none"> <input type="checkbox"/> sheets of the description, claims and/or drawings which have been amended and are the basis of this report and/or sheets containing rectifications authorized by this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions). <input type="checkbox"/> sheets which supersede earlier sheets, but which this Authority considers contain an amendment that goes beyond the disclosure in the international application as filed, as indicated in item 4 of Box No. I and the Supplemental Box. <p>b. <input type="checkbox"/> <i>(sent to the International Bureau only)</i> a total of (indicate type and number of electronic carrier(s)) , containing a sequence listing and/or tables related thereto, in computer readable form only, as indicated in the Supplemental Box Relating to Sequence Listing (see Section 802 of the Administrative Instructions).</p>																			
<p>4. This report contains indications relating to the following items:</p> <table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 15%;"><input checked="" type="checkbox"/> Box No. I</td> <td>Basis of the opinion</td> </tr> <tr> <td><input type="checkbox"/> Box No. II</td> <td>Priority</td> </tr> <tr> <td><input type="checkbox"/> Box No. III</td> <td>Non-establishment of opinion with regard to novelty, inventive step and industrial applicability</td> </tr> <tr> <td><input type="checkbox"/> Box No. IV</td> <td>Lack of unity of invention</td> </tr> <tr> <td><input checked="" type="checkbox"/> Box No. V</td> <td>Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement</td> </tr> <tr> <td><input type="checkbox"/> Box No. VI</td> <td>Certain documents cited</td> </tr> <tr> <td><input type="checkbox"/> Box No. VII</td> <td>Certain defects in the international application</td> </tr> <tr> <td><input type="checkbox"/> Box No. VIII</td> <td>Certain observations on the international application</td> </tr> </table>				<input checked="" type="checkbox"/> Box No. I	Basis of the opinion	<input type="checkbox"/> Box No. II	Priority	<input type="checkbox"/> Box No. III	Non-establishment of opinion with regard to novelty, inventive step and industrial applicability	<input type="checkbox"/> Box No. IV	Lack of unity of invention	<input checked="" type="checkbox"/> Box No. V	Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement	<input type="checkbox"/> Box No. VI	Certain documents cited	<input type="checkbox"/> Box No. VII	Certain defects in the international application	<input type="checkbox"/> Box No. VIII	Certain observations on the international application
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Date of submission of the demand 30.04.2005	Date of completion of this report 30.06.2005																		
Name and mailing address of the international preliminary examining authority:  European Patent Office D-80298 Munich Tel. +49 89 2399 - 0 Tx: 523656 epmu d Fax: +49 89 2399 - 4465	Authorized Officer Telephone No. +49 89 2399- 																		

**INTERNATIONAL PRELIMINARY REPORT
ON PATENTABILITY**

International application No.
PCT/EP2004/008010

10/566311

Box No. I Basis of the report

1. With regard to the **language**, this report is based on the international application in the language in which it was filed, unless otherwise indicated under this item.
 - This report is based on translations from the original language into the following language, which is the language of a translation furnished for the purposes of:
 - international search (under Rules 12.3 and 23.1(b))
 - publication of the international application (under Rule 12.4)
 - international preliminary examination (under Rules 55.2 and/or 55.3)
2. With regard to the **elements*** of the international application, this report is based on (*replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report*):

Description, Pages

1-104 as originally filed

Claims, Numbers

1-10 as originally filed

- a sequence listing and/or any related table(s) - see Supplemental Box Relating to Sequence Listing

3. The amendments have resulted in the cancellation of:
 - the description, pages
 - the claims, Nos.
 - the drawings, sheets/figs
 - the sequence listing (*specify*):
 - any table(s) related to sequence listing (*specify*):
4. This report has been established as if (some of) the amendments annexed to this report and listed below had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).
 - the description, pages
 - the claims, Nos.
 - the drawings, sheets/figs
 - the sequence listing (*specify*):
 - any table(s) related to sequence listing (*specify*):

* If item 4 applies, some or all of these sheets may be marked "superseded."

**INTERNATIONAL PRELIMINARY REPORT
ON PATENTABILITY**

International application No.
PCT/EP2004/008010

Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Yes:	Claims	1-10
	No:	Claims	
Inventive step (IS)	Yes:	Claims	1-10
	No:	Claims	
Industrial applicability (IA)	Yes:	Claims	1-10
	No:	Claims	

2. Citations and explanations (Rule 70.7):

see separate sheet

**INTERNATIONAL PRELIMINARY
REPORT ON PATENTABILITY
(SEPARATE SHEET)**

International application No.

PCT/EP2004/008010

Re Item V.

Relevant prior art is provided by

- (A) DD 83869
- (B) EP 0024931
- (C) DE 3340026
- (D) Chemick zvesti - chemical papers 1984, 38(5), 693-698

Novelty

Article 33(2) PCT appears to be satisfied: No herbicidal activity has been disclosed in (A)-(D) for any compound falling within the scope of formula (I) of claim 1 and thus claims 9 and 10. Claim 7 appears to be novel on account of the twelve provisos.

Inventive Step

(A) or (B) could be seen as the closest prior art, both disclosing benzotriazine derivatives which show the desired activity. The current compounds essentially differ from these on account of the annelated five-membered heterocycle. (C) relates to herbicidal compounds which contain a central fused triazinone-pyrrolidine ring system. However, the skilled person had no incentive to combine (A)/(B) with (C) and further modify the resulting tricyclic compounds in exactly such a way as to arrive at the current solution. Consequently, an inventive step in the sense of Article 33(3) PCT may be acknowledged for all compounds which actually solve the given problem.